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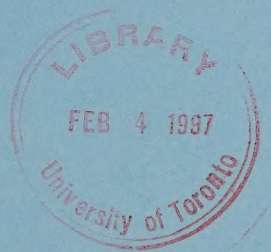
National Energy Board

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## Reasons for Decision

TransCanada Power Corp.

**EH-1-96**



January 1997

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Facilities

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## **National Energy Board**

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### **Reasons for Decision**

In the Matter of

**TransCanada Power Corp.**

Application dated 24 September 1996 for an  
International Power Line

**EH-1-96**

**January 1997**

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represented by the National Energy Board

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## Abbreviations

Act	<i>National Energy Board Act</i>
ADOE	Alberta Department of Energy
AEUA	<i>Alberta Electric Utilities Act</i>
AIS	Alberta Integrated Systems
AMPS	Alberta Association of Municipal Power Systems
Board	National Energy Board
CEAA	<i>Canadian Environmental Assessment Act</i>
CSA	Canadian Standards Association
Certificate	Certificate of Public Convenience and Necessity
Express	Express Pipeline Ltd.
Hill County	Hill County Electric Cooperative
km	kilometre(s)
kV	kilovolt(s)
m	metre(s)
Minister	Minister of Natural Resources, Canada
TPC	TransCanada Power Corp.
TransAlta	TransAlta Utilities Corporation
U.S.A.	United States of America
Wild Horse Station	Wild Horse Pump Station

## Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* ("the Act") and the regulations made thereunder; and

IN THE MATTER OF an application dated 24 September 1996 by TransCanada Power Corp. ("TPC"), for a Certificate of Public Convenience and Necessity ("Certificate"), pursuant to section 58.16 of the Act, for the construction and operation of an international power line from the international boundary near Wild Horse, Alberta, and extending for a distance of approximately 15 kilometres ("km") to the Wild Horse Pump Station ("Wild Horse Station") of Express Pipeline Ltd. ("Express") in the Province of Alberta; and

IN THE MATTER OF Hearing Order EH-1-96,

HEARD in Calgary, Alberta on 9 and 10 December 1996.

BEFORE:

R.L. Andrew	Presiding Member
R. Illing	Member
J. Snider	Member

### APPEARANCES

P.R. Jeffrey B.K. Chisholm	TransCanada Power Corp.
C. Jackson	Alberta Municipal Power System
L.L. Manning	Independent Power Producers Society of Alberta
D. Macnamara	Industrial Power Consumers Association of Alberta
W. Arsene	Western Old Man Water Users Association
D.S. Bailey	Alberta Power Limited
R.B. Cohen	Express Pipeline Ltd.
W.M. Moreland	Interprovincial Pipe Line Inc.
W. Fraser	Irrigation Canal Power Co-operative Ltd.
J.J. Marshall, Q.C. K. Fernandez	TransAlta Utilities Corporation
C.J.C. Page	Alberta Department of Energy
J. Voss	City of Calgary



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## Chapter 1

# Introduction

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### 1.1 Background

By application dated 24 September 1996, TPC applied to the National Energy Board ("the Board") pursuant to section 58.16 of the Act for a Certificate to construct a radial international power line. The proposed line would commence at the international boundary near Wild Horse, Alberta and extend for a distance of approximately 15 km to the Wild Horse Station on the Express oil pipeline, which previously received Board approval under Certificate OC-40 in June 1996. TPC is in the process of negotiating an agreement with the United States of America ("U.S.A.") based Hill County Electric Cooperative ("Hill County") to supply electricity for the Wild Horse Station via approximately 26.5 km of new transmission power line in the U.S.A.

Pursuant to section 58.23 of the Act, TPC filed an election dated 15 October 1996, to have the provisions adopted by reference in section 58.27 of the Act, and not the laws of a province described in section 58.19 of the Act, apply in respect to its application.

At the direction of the Board, a pre-hearing conference was held on 30 October 1996, pursuant to Rule 27 of the *National Energy Board Rules of Practice and Procedure*, 1995. As a result of the pre-hearing conference TPC withdrew its 15 October 1996 request for consideration of a preliminary question of jurisdiction in this facilities application. TransAlta Utilities Corporation ("TransAlta") stated that it would pursue the matter of a condition concerning the applicability of the *Alberta Electric Utilities Act* ("AEUA") to the TPC facilities, at the EH-1-96 hearing.

At the further direction of the Board, a section 57 Notice pursuant to the *Federal Court Act* was issued and served on the federal and provincial Attorneys-General, due to the constitutional implications of the condition sought by TransAlta. That issue potentially put into question the applicability or operability of the AEUA in relation to any international power line owned and operated by TPC in the Province of Alberta, which is authorized by a Certificate issued by the Board. In such circumstances, a formal notice to the Attorneys-General is required by law.

The Applicant published a notice of its application, in both official languages, in the Canada Gazette on 9 November 1996. Publication also occurred in the Calgary Herald, the Lethbridge Herald and the Medicine Hat News on 31 October 1996 and in the Review, Raymond, Alberta on 5 November 1996.

The Board held an oral public hearing in Calgary, Alberta on 9 and 10 December 1996.

### 1.2 Environmental Screening Process

#### 1.2.1 Express's Section 21 Application

Subsequent to the issuance of Certificate OC-40, Express applied to the Board on 3 July 1996, pursuant to section 58 of the Act, to power its Wild Horse Station with electricity rather than the approved reciprocating engines to be fuelled by synthetic crude. The Board advised Express that it

would consider its application as a variation to Certificate OC-40, pursuant to section 20 and subsection 21(2) of the Act.

At the time of Express's filing for the modified facilities, Express indicated that TPC intended to file an application with the Board for approval to construct and operate an international power line to provide electrical power to the Wild Horse Station. The Board advised Express that, pursuant to subsection 15(2) of the *Canadian Environmental Assessment Act* ("CEAA"), the application for a variation and the proposed power line application are so closely related that they can be considered to form a single project. Therefore, the Board decided that upon receipt of the power line application the Board would consider the two projects as a single project and conduct one environmental screening.

However, the Board's decision, pursuant to section 20 and subsection 21(2) of the Act, in regard to the Express application, remains independent of the TPC decision and will therefore be issued separately.

### **1.2.2 Environmental Screening**

The Board conducted an environmental screening of TPC's applied-for facilities and Express's application for a variation in compliance with section 18 of the CEAA. The Board ensured that there was no duplication in the requirements under the CEAA and the Board's own regulatory process.



## Chapter 2

# Facilities, Purpose and Justification

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The facilities included in TPC's 24 September 1996 application consist of a 69 kilovolt ("kV"), three-phase, 60 hertz radial power line traversing the international boundary at a point located in south-eastern Alberta (Refer to Figure 2.1). The power line would extend northward for approximately 12.8 km along the eastern edge of the easement of Alberta Highway #41 before turning westerly for approximately 1.6 km along a new access road to Express's Wild Horse Station, terminating at the dead-end structure of the proposed 69/4.16 kV electric substation located at the Wild Horse Station.

Mounted on single poles, one 4/0 - 6/1 ACSR (Penquin) conductor per phase would be utilized. The transmission line would be constructed with a 3/8" high strength steel overhead static conductor for lightning diversion. The proposed international power line will be built to conform with Canadian Standards code requirements for overhead power lines as detailed in Canadian Standards Association ("CSA") Standard C22.3 No. 1-M87.

TPC submitted that the proposed international power line would enable it to provide electricity to two 4 000 horsepower electric motors and ancillary facilities at the Wild Horse Station, would be more cost effective than powering the station by fuel driven pumps as previously applied for and approved under Board Certificate OC-40; issued to Express on 26 June 1996, and would have a lesser impact on the environment.

TPC noted that Board Certificate OC-40, approved, in part, that the Wild Horse Station be fuelled by synthetic crude whereas all the other pump stations on the pipeline were to be powered by electricity. TPC submitted that to supply the Wild Horse Station with electricity from Alberta would have required a 130 km 138 kV transmission line at an estimated cost of \$12 800 000.

The alternative to supply the Wild Horse Station with electricity by means of a 69 kV transmission line by extending Hill County's existing system in Montana was not discovered until Express and TPC began making inquiries regarding distribution service to the fuel driven pumps. Subsequently, in its 24 September 1996 application TPC submitted that the option of bringing electric power to the Wild Horse Station from a short distance away in the U.S.A. addressed both the relative cost of electricity and environmental concerns.

No party challenged the technical details or safety aspects of the design, construction and operation of the proposed international power line. The Alberta Association of Municipal Power Systems ("AMPS"), however, questioned who would be responsible for operation and maintenance of the international power line and whether a study had been completed showing the line losses on the Montana portion of the line in comparison to an Alberta Integrated Systems ("AIS") interconnection.

TPC stated that it would be responsible for operation and maintenance of the international power line and that it is in the process of negotiating an agreement with Hill County to operate and maintain the line. Hill County and TPC are also negotiating for the purchase and delivery of electricity using the facility proposed in TPC's application. TPC stated that Express has agreed to reimburse it for the total capital cost of the proposed international power line.

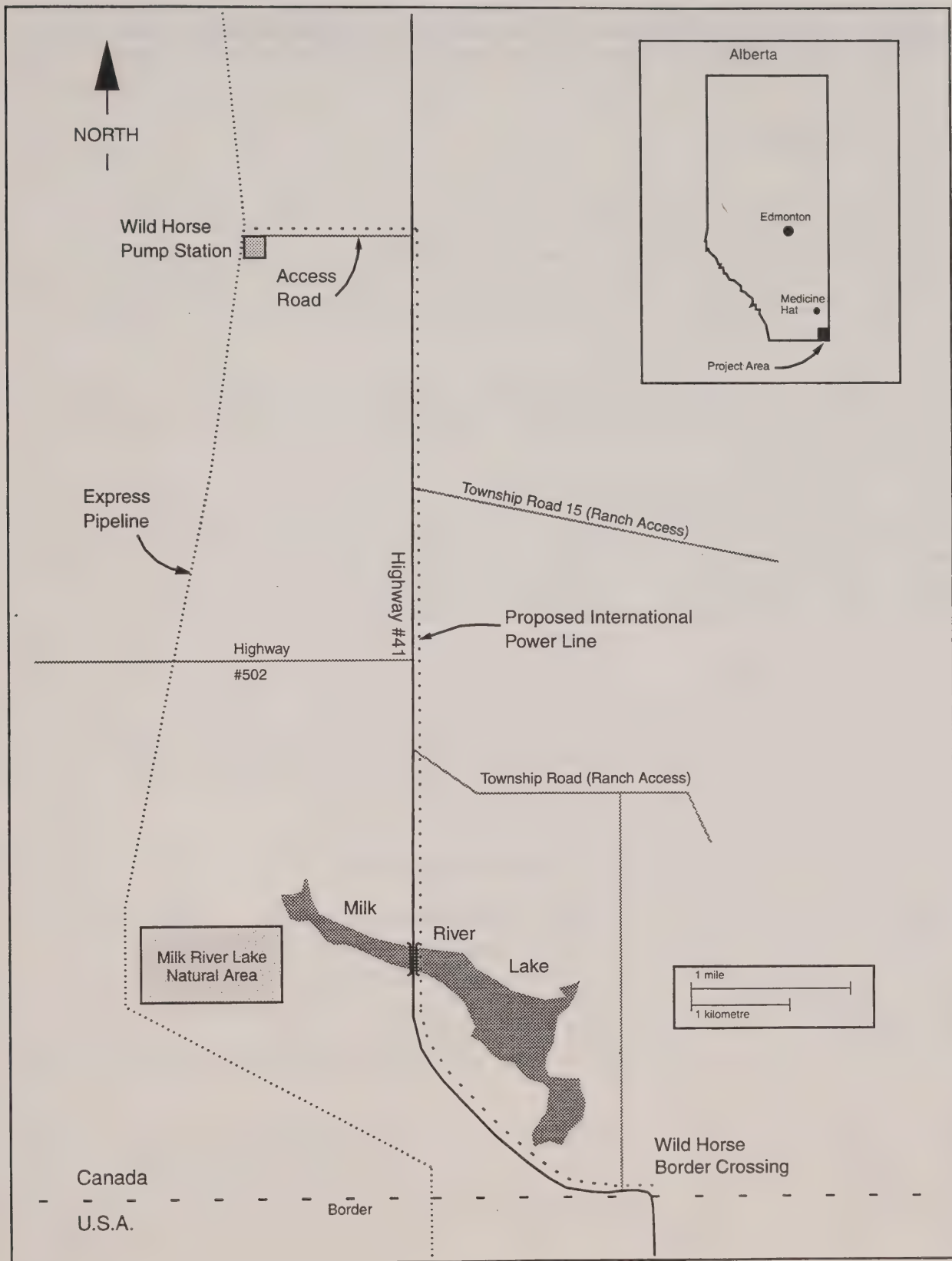


In regard to a comparison of line losses, TPC stated that such a study was not undertaken due to the prohibitive estimated capital cost of a 130 km AIS interconnection. Transmission losses for the proposed 69 kV international power line were expected to be in the order of one percent.

### *Views of the Board*

The Board notes that no party challenged the purpose, justification and economic advantage of the proposed international power line. The Board is satisfied that the proposed facilities have been designed and will be constructed and operated in accordance with the requirements of the Act, and that TPC has demonstrated that it will construct, operate and maintain the international power line to meet or exceed the requirements of CSA Standard C22.3 No.1-M87 with due regard for safety and appropriate design standards.

**Figure 2-1**  
**Location of Proposed Wild Horse Power Line**



## Chapter 3

# Land, Environmental and Socio-Economic Matters

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### 3.1 Land Matters

TPC stated that, when paralleling Highway #41, the poles would be installed within the existing Highway #41 road allowance. TPC further stated that the power line poles would be located on provincial Crown land from Highway #41 west along the access road to the Wild Horse Station, from Highway #41 east to the Border crossing, and for a distance of approximately 500 metres ("m") along the southern curve of Highway #41. A 10 m permanent easement has been requested for the power line right-of-way located on Crown land.

TPC stated that notice, pursuant to section 87 of the Act, has been served on landowners. Alberta Environmental Protection has provided a Letter of Authority to TPC with respect to the right-of-way located on Crown land.

Alberta Transportation and Utilities has also provided a permit for the placement of the power line within the existing Highway #41 road allowance. Pursuant to the provisions of the permit, TPC is "responsible for any adjustment and/or removal of such electrical line which may be required to avoid interference with any future highway upgrading". TPC submitted that it does not require any additional land or land rights beyond those granted by Alberta Transportation and Utilities.

#### *Views of the Board*

The Board finds that TPC's requirements for a permanent easement and the use of the existing Highway #41 road allowance are reasonable and justified. The Board notes that no intervenor objected to the proposed power line route or the requirements for new land rights.

### 3.2 Environmental and Socio-Economic Matters

As noted in Chapter 1, section 1.2, the Board has completed an Environmental Screening Report pursuant to the CEAA and the Board's own regulatory process, for both the TPC and the Express applications. The report addresses the Early Public Notification process, routing, environmental matters, and socio-economic matters. In accordance with Hearing Order EH-1-96, the Environmental Screening Report was to be released for comment to those parties who requested a copy from the Board. As no requests were received by the Board, the Environmental Screening Report was released for comment to TPC and Express.

The Board has considered the Environmental Screening Report and comments received on the report in accordance with Hearing Order EH-1-96, and is of the view that, taking into account the implementation of the proposed mitigative measures and those set out in the attached conditions, TPC's proposed international power line and Express's proposed variation to the Wild Horse Station



are not likely to cause significant adverse environmental effects. This represents a decision pursuant to paragraph 20(1)(a) of the CEAA.

The comments received, and the Board's views, have been added to the Environmental Screening Report as Appendices I and II respectively. Copies of the Board's Environmental Screening Report are available upon request from the Board's Regulatory Support Office.

## Chapter 4

# Legal Matters

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The application by TPC is the first application for a certificate since the enactment, in 1990, of the current legislative regime for the regulation of electricity in the federal jurisdictional sphere. Accordingly, the Board is of the view that at the outset of this chapter, it is desirable to review the manner in which international power lines may be authorized by federal authority.

The most common method of creating an international power line is by way of an application made pursuant to section 58.11 of the Act, for a permit authorizing the construction and operation of an international power line. Applicants for a permit must give public notice of their application, following which the Board receives written submissions from the public with respect to the application. The Board does not have a discretion to refuse the issuance of a permit but it may make a public recommendation to the Minister of Natural Resources, Canada ("Minister") suggesting that the Governor in Council designate a particular permit application as one which shall be heard and decided under certificate procedures. Absent such a recommendation, or its acceptance by the Governor in Council, a permit issues with or without conditions, and the content of any conditions are circumscribed by the electricity regulations enacted by the Governor in Council.

Where an international power line is created by the permit procedure, sections 58.19 and 58.2 of the Act provide that certain provincial laws applicable to intraprovincial power lines (relating to the location, construction, operation and abandonment of the power line) also apply to the international power line established by the federal permit. The application of provincial law is subject only to the applicability of federal laws of general application, or terms and conditions imposed by the Board in the permit. The permit is effective upon issuance by the Board and does not require any further approval by the Governor in Council.

The second instrument that exists for the creation of an international power line arises initially in the context of a permit application and consists of a certificate resulting from a public recommendation to the Minister, which suggests that the application be designated as an application which should be dealt with under certificate procedures. Where such a recommendation is issued and subsequently accepted by the Governor in Council, on the advice of the Minister, the application for a permit is dealt with as if it was an application for a certificate. The Board must then convene a public hearing to hear and decide, in its discretion, to grant or deny the application. Where the Board approves the certificate application, the consent of the Governor in Council is required before a certificate may issue to the applicant.

As with an international power line that is established by a permit, an international power line created by a designation certificate will be located, constructed, operated and abandoned under provincial laws as provided for under sections 58.19 and 58.2 of the Act, subject only to the paramountcy of federal laws of general application and to conditions imposed by the Board.

A third instrument for the creation of an international power line consists of a certificate which may be issued pursuant to an election filed by an applicant pursuant to section 58.23 of the Act. An election automatically converts any permit application into an application for a certificate. Where an

election is filed, the Board examines the application in a public hearing, following which it may, in its discretion, grant or deny the application. Like a designation certificate, the issuance of an elective certificate is subject to the approval of the Governor in Council. However, unlike a designation certificate, an international power line constructed and operated pursuant to an elective certificate does not result in the application of provincial laws with respect to its location, construction, operation and abandonment. An international power line authorized by an elective certificate remains under federal law for all purposes and the provisions of the Act relating to pipelines are adopted, with the necessary changes, for the regulation of international power lines authorized under this instrument.

In this instance, TPC has chosen to file an election, and to request from the Board that an elective certificate be issued to authorize the construction and operation of the international power line. The parties to this hearing did not contest the legal right of the Board to authorize the construction and operation of the international power line under the elective certificate procedure. All parties recognized that it was within the constitutional authority of the federal government to authorize the construction and operation of an extraprovincial work and undertaking to supply electricity to the Express pipeline. What remained in issue between the Applicant and a number of intervenors, however, was the applicability of the AEUA to any international power line authorized by the Board. The AEUA establishes franchise rights over service territories with respect to electrical distribution systems in the Province of Alberta. Intervenors, notably TransAlta and Alberta Power Limited, viewed TPC as a bypass line, which would avoid the legislative policies of the Province of Alberta. Those intervenors were strongly supported by the Alberta Department of Energy ("ADOE") and the Western Old Man Water Users Association. However, some intervenors, particularly AMPS, the Industrial Power Consumers Association of Alberta and the Independent Power Producers Society of Alberta supported the application made by TPC.

Those parties which considered the TPC proposal to be a bypass power line sought a condition in any certificate which the Board may issue, requiring TPC to comply with the AEUA or to provide evidence that it has complied with the requirements of the AEUA. TPC contested the jurisdiction of the Board to impose such a condition, as well as its appropriateness in the circumstances. The arguments submitted to the Board involved considerable legal analysis of the constitutional applicability of the provincial statute to a federal undertaking, as well as the authority of the Board to impose conditions under the Act. The Board is appreciative of the efforts made by all counsel in this regard and has carefully reviewed all of the submissions made to it.

The powers of the Board to impose terms and conditions on an international power line are set out in subsection 58.35(2) of the Act, which states:

- (2) The Board may, on the issuance of a certificate, make the certificate subject to such terms and conditions as the Board considers necessary or desirable in the public interest.

The Board's authority to consider and decide the constitutional applicability of the provincial statute flows from the broad powers conferred on the Board by subsection 12(2) of the Act to decide all matters of law or fact that are brought before it in the context of the Act. Thus, the Board has the requisite authority to embark upon an inquiry in relation to the matters at issue between the parties.

A number of parties addressed the fact that conditions requiring the filing of evidence of compliance with provincial requirements are imposed in other certificates issued by the Board, as well as in export



licences or permits issued by the Board. The fact that the Board has imposed such conditions on other occasions is a matter of public record and, in considering the very broad scope of subsection 58.35(2) of the Act, the Board has concluded that it has full power to impose such conditions, where the public interest requires it to do so. However, the question of whether a condition should be imposed is fundamentally a question of discretion, calling for the exercise of a considered judgment by the Board. In approaching the question of exercising the powers given to it by subsection 58.35(2) in these circumstances, the Board considers that three considerations are paramount to its decision.

Firstly, the Board is of the view that there ought to be a logical nexus between the subject matter of the application and the subject matter of the condition which is sought to be imposed. In this case, the Applicant has requested a certificate to authorize construction and operation and has not requested permission to charge rates for the transmission or supply of electricity. Those two subjects constitute different subject-matter, one dealing with the regulation of a physical work and undertaking, particularly its design, safety and environmental suitability, while the other subject relates to the economic regulation of a work and undertaking. The Board was not asked by TPC to approve a transmission or service charge in this application. Counsel for ADOE suggested that the Board's certificate would authorize operations, and that is the activity which would conflict with the AEUA. However, in the Board's view, operations consist of the physical working of the line and is not the same as the economic charges made for service by the power line. Therefore, the Board has concluded that the application and the condition sought by intervenors relate to quite different subject-matter, and lack a sufficient logical nexus to warrant the Board imposing a condition of the type requested by the intervenors.

Secondly, the Board is of the view that it should not exercise its discretion to impose a condition where that condition would prejudice the subsequent legal rights of the Applicant. In this case, the Applicant disputes the applicability of the AEUA to its international power line, while certain of the intervenors are insistent that the legislation is applicable to the TPC line. Should the Board act on the request of the intervenors and impose a condition requiring the submission of evidence of TPC's compliance with the AEUA, the effect would be to require TPC to attorn to the AEUA, regardless of TPC's position on the applicability of the AEUA to TPC's international power line. That could undermine TPC's position on the legal merits of the issue and may work a serious disadvantage to TPC in any subsequent legal proceedings.

The fact that the applicability of the AEUA is disputed in this case is significant, and serves to distinguish this potential condition from other circumstances where the Board has imposed a condition requiring evidence of compliance with provincial law. The Board considers that it would generally not be appropriate to impose a condition that would require an applicant to attorn to another jurisdiction, where the applicant disputes that jurisdiction and where it may well have to defend its position in proceedings in that other jurisdiction.

In reaching this conclusion the Board is mindful of the comments of some parties that the Board should not issue a certificate where it is clear that an applicant intended to breach an applicable law. However, where the applicability of legislation has not yet been judicially determined, and the applicant disputes the applicability of that legislation, the Board considers that it is not faced with a situation involving a party which intends to wilfully fail to observe a federal or provincial law.

Finally, in assessing the merits of the condition sought by the intervenors, the Board has considered whether it is the appropriate body to be deciding upon the applicability of the AEUA to TPC. While the Act is clear that the Board has the necessary jurisdiction to pronounce a judgment upon this issue, the Board notes that there are other *fora* that have decision-making authority with respect to the AEUA. Furthermore, both the provincial regulator and the provincial courts may be expected to have considerable familiarity with the AEUA.

Accordingly, in this case the Board has decided, as a matter of discretion, that the public interest does not require it to exercise its powers under subsection 58.35(2) of the Act to impose a condition requiring TPC to file evidence with the Board of its compliance with the AEUA prior to the commencement of operation of the international power line.

## Chapter 5

# Disposition

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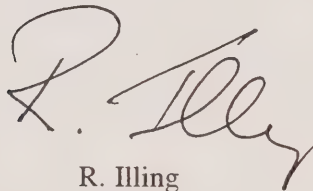
The foregoing Chapters, together with Certificate of Public Convenience and Necessity EC-III-23, constitute our Decision and Reasons in respect of the application heard before the Board in the EH-1-96 proceeding. The Board is satisfied from the evidence that the proposed facilities are and will be required by the present and future public convenience and necessity. The Board is also of the view that the design and location of the facilities are satisfactory and will ensure their safe and environmentally sound construction and operation.

The Board's decision to grant approval to TPC's request to construct an international power line is subject to the approval of the Governor in Council.

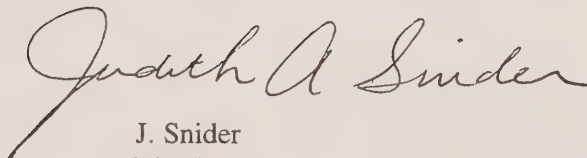
TPC is requested to supply the Board, by the 15th day after the end of each month, a report setting forth the quantities of power and energy imported, and the resulting revenue.



R.L. Andrew  
Presiding Member



R. Illing  
Member



J. Snider  
Member



## Appendix I

### Certificate EC-III-23

---

**IN THE MATTER OF** the *National Energy Board Act* ("the Act") and the regulations made thereunder; and

**IN THE MATTER OF** an application dated 24 September 1996, by TransCanada Power Corp. ("TPC") pursuant to section 58.16 of the Act, for, a Certificate, filed with the Board under File: 2200-T027-1

**WHEREAS** in the application TPC requested authorization to construct and operate an international power line extending across the international boundary near Wild Horse, Alberta and terminating in the Province of Alberta, within Legal Subdivision 16, Section 1, Township 2, Range 3, West of the 4th Meridian;

**AND WHEREAS** TPC, on 9 November 1996, published a notice of the application in the *Canada Gazette*;

**AND WHEREAS** the Board has examined the application in an oral public hearing held pursuant to Hearing Order EH-1-96, in the City of Calgary, Alberta on 9 and 10 September 1996;

**AND WHEREAS** pursuant to the *Canadian Environmental Assessment Act* ("CEAA") the Board has considered the information submitted by TPC and has performed an environmental screening for the construction and operation of the proposed international power line;

**AND WHEREAS** the Board has determined, pursuant to paragraph 20(1)(a) of the CEAA, that taking into account the implementation of TPC's proposed mitigative measures and those set out in the attached conditions, the proposal is not likely to cause significant adverse environmental effects;

**AND WHEREAS** the Board has determined that the applied-for international power line is and will be required by the present and future public convenience and necessity;

**AND WHEREAS** on 16 January 1997 TPC advised that effective 1 January 1997 it was amalgamated with affiliated corporations to become TransCanada Energy Ltd. ("TCE") under section 185 of the *Canada Business Corporations Act*;

**AND WHEREAS** the Governor in Council by Order in Council No. P.C. 1997-\_\_\_\_\_ dated the \_\_\_\_ day of \_\_\_\_\_, 1997, has approved the issue of this certificate;

**NOW THEREFORE** pursuant to section 58.16 of the Act, the Board hereby issues this certificate in respect of the applied-for international power line.

This Certificate is subject to the following terms and conditions:

1. The international power line to be constructed and operated pursuant to this Certificate of Public Convenience and Necessity shall be owned and operated by TCE.
2. The new facilities to be constructed pursuant to this Certificate of Public Convenience and Necessity shall consist of a radial circuit constructed as a single wood pole overhead transmission line. The circuit will be operated at a nominal 69 000 volts (phase to phase) and 60 hertz. Phase conductors will be 4/0 - 6/1 ACSR (Penquin). One conductor per phase will be utilized. The transmission line will be constructed with a 3/8" high strength steel overhead static conductor for lightning diversion.
3. The new facilities to be constructed pursuant to this Certificate of Public Convenience and Necessity shall extend from the United States of America at the international boundary near Wild Horse, Alberta and terminate in the Province of Alberta, within Legal Subdivision 16, Section 1, Township 2, Range 3, West of the 4th Meridian, a total length of approximately 15 km.
4. The new facilities shall be constructed, operated and maintained to meet or exceed the requirements of Canadian Standards Association Standard C22.3 No.1-M87.
5. TCE is required to implement or cause to be implemented all of the policies, practices, recommendations and procedures included or referred to in its application, including the environmental reports and other materials filed as part of its application, its responses to information requests and the undertakings and statements made by it in this proceeding where they do not conflict with any of the following conditions.
6. TCE is required to use only native seed mixes in the revegetation of the power line right-of-way.
7. TCE shall contact Environment Canada in regard to wildlife, if power line construction is delayed past the 15th of April.
8. TCE shall complete all construction-related activities within 500 m of the known Burrowing Owl site prior to the 15th of April.
9. TCE shall complete all construction-related activities within 200 m of the Milk River Lake prior to the 15th of April.
10. TCE shall file a plan in respect of the spans crossing Milk River Lake, for Board approval, prior to the commencement of construction, showing the installation of:
  - (a) Spiral Vibration Dampeners as described in the evidence and,
  - (b) in addition to (a), marker spheres or Bird Flight Diverters on the wires along the centre of the spans, in order to minimize the potential for collisions by birds with the wires. This plan shall show the size, location and spacing of the marker spheres or Bird Flight Diverters.

11. TCE shall file, within six months after the first growing season, an environmental letter report detailing any environmental issues that have arisen and the measures TPC proposes to take, or has taken, in respect of the unresolved issues.
12. TCE shall not make any change in the international power line authorized by this Certificate of Public Convenience and Necessity without prior approval by the Board.
13. If the international power line is at any time in the future reconfigured to operate in the export mode, TCE shall obtain a copy of the NEB electricity export permit from each person seeking to use the line in order to facilitate an export of electricity from Canada, prior to transmitting the electricity over the international power line.
14. If the power line is reconfigured in the future to operate in the export mode TCE will submit, for approval by the Board, a plan providing for the installation of metering facilities to be located at or near the international boundary near Wild Horse, Alberta.
15. TCE:
  - (a) shall give notice to the Board of its intention to commence operation of the international power line at least seven days prior to the commencement of operations, in order to permit the Board to inspect the condition of the line; and
  - (b) may commence operations at any time after the completion of an inspection of the international power line by the Board.
16. TCE shall comply with all of the conditions contained in this Certificate unless the Board otherwise directs.

#### Expiration of Certificate

17. If the international power line has not been placed in operation by 31 December 1998, this certificate shall expire on that date or upon such other date as may, upon application, be fixed by the Board.

NATIONAL ENERGY BOARD

M.L. Mantha  
A/Secretary









